
REPORTING FOREIGN GIFTS AND CONTRACTS

SCOPE: Louisiana State University and Agricultural and Mechanical College (LSU) and Affiliate Organizations

EFFECTIVE: July 1, 2023. This FASOP supersedes and replaces all prior versions.

PURPOSE: The purpose of this FASOP is to establish the requirements to comply with **Section 117** of the Higher Education Act of 1965 (20 U.S.C. § 1011f), further known as “Section 117”; and **Act 767** of the Higher Education Foreign Security Act of 2022 (R.S 17:1826.2(C)) which was amended by **Act 106** of the 2023 Regular Session, collectively further referred to as “Act 767.”

Section 117 states whenever any institution is owned or controlled by a foreign source, receives a Gift from, or enters into a Contract with an individual foreign source, the value of which is \$250,000 or more, considered alone or in combination with all other Gifts from or Contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary of Education (through the Department of Education) on January 31 or July 31, whichever is sooner.

Additionally, when an institution receives a restricted or conditional Gift or Contract from a foreign source, the institution must also disclose the conditions or restrictions associated with the Gift or Contract.

Act 767 requires institutions and their affiliate organizations to report a gift, contract, grant, donation, promise to pay, or scholarship received directly or indirectly, in total, from a foreign adversary with a value of \$50,000 or more in a single calendar year. The report is submitted to the Board of Regents on January 31 or July 31, whichever is sooner. Multiple gifts from a foreign adversary totaling \$50,000 or more are to be included, even if no single gift meets that threshold amount.

DEFINITIONS:

- A. *Affiliate Organization*** refers to any entity under the control of or established for the benefit of an organization, including a direct-support organization.
- B. *Contract*** refers to any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties. Act 767 further defines contracts to include any purchase, lease, or barter property or services from a foreign adversary.
- C. *Foreign Adversary*** refers to any foreign government or foreign non-government person determined by the United States secretary of commerce to have engaged in a long-term

pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons as listed in **15 CFR §7.4**.

D. *Foreign Source* refers to any one of the following:

- i. a foreign government, including an agency of a foreign government;
- ii. a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;
- iii. an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; or
- iv. an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

E. *Foreign Source Specialist* is a staff member within Accounting Services – Bursar Operations whose responsibility is to collect, compile, and maintain the reporting documents for Section 117 and Act 767.

F. *Gift* herein refers to any Gift of money or property. Act 767 further defines gift as any contract, gift, grant, endowment, award, promise to pay, scholarship, or donation of money or property of any kind, or any combination thereof.

G. *Institution*, in reference to Section 117, refers to any institution, public or private, of, if a multi-campus institution, any single campus of such institution, in any State that

- i. is legally authorized with such State to provide a program of education beyond secondary school;
- ii. provides a program for which the institution awards a bachelor’s degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and
- iii. is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution’s subunits.

Act 767 defines an institution as a Louisiana college or university, a nonpublic postsecondary institution that is a member of the Louisiana Association of Independent Colleges and Universities, and any other entity offering a program of postsecondary education that has a physical presence in the state.

H. *Reporting Date* herein refers to January 31 and July 31.

I. *Restricted or Conditional Gift or Contract* refers to any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding:

- i. the employment, assignment, or termination of faculty;
- ii. the establishment of departments, centers, research or lecture programs, or new faculty positions;

- iii. the selection or admission of students; or
- iv. the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

- J. **Semi-annual Reporting Periods** herein refers to two reporting periods: January 1 - June 30 and July 1 - December 31.
- K. **Units** refers to individual colleges and affiliates (i.e., College of Science, Tiger Athletic Foundation).

*The definitions of "Contract," "Foreign Source," and "Gift" articulated in this FASOP apply only for the purposes of this FASOP and compliance with **Section 117** and **Act 767**; they do not define how these terms are generally used or understood at LSU.*

SECTION 117 COMPLIANCE COMMITTEE:

- A. **Committee Purpose:** The Compliance Committee is a workgroup responsible for the oversight of, and compliance with, this policy and processes. It oversees the reporting by units, review, and preparation of information relating to Foreign Sourced Gifts and Contracts pursuant to Section 117, and it ensures the timely filing of the semiannual reports. The Committee is also responsible for timely reminders to units prior to the due date. After all information is compiled and reviewed, the Foreign Source Specialist is responsible for the filing through the FSA website semi-annually.
- B. **Committee Members:** The Compliance Committee is composed of Representatives from, but not limited to, the following departments within LSU and its affiliates:
 - i. Accounting Services
 - ii. Affiliate Entities
 - iii. Financial Aid
 - iv. Information Technology Services
 - v. Academic Affairs
 - vi. Office of Research and Economic Development

SECTION 117 REPORTING PROCEDURES:

- A. **Reporting Requirements:** To comply with Section 117, all units receiving Gifts or entering into Contracts must properly track and record Gifts pursuant to the policy. A Gift must be recorded when the Gift is received. A Contract must be reported when the Contract is executed, or at the time payments are received.

- B. Reporting Survey:** Approximately 7 business days prior to the end of the current reporting period, the Foreign Source Specialist provides each unit a reporting survey that is due approximately 7-business days after the current reporting period date. The survey inquires if each unit has reportable item(s) and the necessary contact for the reportable item(s). Unit contacts are responsible for reporting any foreign Gifts or Contracts to the Foreign Source Specialist. If a unit is identified as having a reportable item, the Foreign Source Specialist provides the unit a form to collect the necessary information referenced below.
- C. Reporting by Units:** The following information is required when a reportable item is identified:
- i. Source Name, Address, Country
 - ii. Source Type (i.e., Government, Legal Entity, Individual, Agent)
 - iii. Transaction Type (i.e., Gift or Contract)
 - iv. Dollar Value
 - v. Date Received
 - vi. Reporting Period (i.e., July 1-December 31)
 - vii. Start and End Date(s) (for Contracts only)
 - viii. Information related to any Restrictions or Conditions
 - ix. Intermediaries or Domestic Parties
 - x. Reporting Department with Department Contact Name and E-Mail
 - xi. Comments (if needed)

Additionally, units are responsible for maintaining supporting documentation related to the Gift or Contract in the event of an internal or external review. Documents are to be maintained in accordance with the University's *record retention policy*.

- D. Review and Threshold:** After the due date, which is approximately 10 business days prior to the semi-annual reporting date, the information provided on the form is reviewed for accuracy and completeness by the Foreign Source Specialist. The Specialist is responsible for aggregating the information by source and analyzing the information to determine if it exceeds the \$250,000 threshold. If the Gift or Contract exceeds the threshold, it is reported.
- E. Semi-Annual Reporting:** The Foreign Source Specialist is responsible for the reporting to the Department of Education's FSA Foreign Gift and Contract Disclosure Website.

When submitting, the Specialist must acknowledge that the information is subject to 18 U.S.C. §1001. It provides that whoever knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same

to contain any materially false, fictitious, or fraudulent statement or entry, may be subject to fines and imprisonment.

ACT 767 REPORTING PROCEDURES:

- A. **Reporting Requirements:** To comply with Act 767, all units receiving Gifts or entering into contracts must properly track and record Gifts pursuant to the policy. A Gift must be recorded when the Gift is received. A Contract must be reported when the Contract is executed, or at the time payments are received.

- B. **Reporting Survey:** Approximately 7 business days prior to the end of the current reporting period, the Foreign Source Specialist provides each unit a reporting survey that is due approximately 7-business days after the current reporting period date. The survey inquires if each unit has reportable item(s) and the necessary contact for the reportable item(s). Unit contacts are responsible for reporting any foreign Gifts or Contracts to the Foreign Source Specialist. If a unit is identified as having a reportable item, the Foreign Source Specialist provides the unit a form to collect the necessary information referenced below.

- C. **Reporting by Units:** The following information is required when a reportable item is identified:
 - i. Institution
 - ii. Date received
 - iii. Dollar value
 - iv. Name of foreign source
 - v. Country of Citizenship
 - vi. Country of Residence/Domicile
 - vii. Start and End Date(s) (for Contracts only)
 - viii. Supporting documentation (i.e., copies of the gift agreements, contracts, etc.)
 - ix. Notes (if needed)

Units are responsible for providing supporting documentation to the Foreign Source Specialist related to the Gift or Contract when the reportable item is identified. Act 767 requires the documentation to include a copy of any gift agreement between the foreign source and the institution, signed by the foreign source and the chief administrative officer of the institution, or the respective designees, which includes a detailed description of the purpose for which the gift is to be used by the institution, the identification of the person whom the gift is explicitly intended to benefit, any applicable conditions, requirements, restrictions, or terms made a part of the gift regarding the control of curricula, faculty, student admissions, student fees, or contingencies placed upon the institution to take a specific public position or to award an honorary degree. If an agreement contains information protected from disclosure, an abstract

or redacted copy of the disclosure containing information that is not protected shall be submitted in lieu of a copy of the agreement.

All documentation is to be maintained in accordance with the University's *record retention policy*.

Additionally, any person subject to travel abroad representing their respective institution, upon return, shall report any gifts of funds or promises to pay offered by a foreign adversary or any entity representing the interests of a foreign adversary.

- D. **Review and Threshold:** After the due date, which is approximately 10 business days prior to the semi-annual reporting date, the information is reviewed for accuracy and completeness. The reviewer is responsible for aggregating the information by source and analyzing the information to determine if it exceeds the \$50,000 threshold. If the Gift exceeds the threshold, it is reported. Multiple gifts from a foreign adversary totaling \$50,000 or more are to be included, even if no single gift meets that threshold amount.
- E. **Semi-Annual Reporting:** The Foreign Source Specialist is responsible for the reporting to the LSU Board of Supervisors who then reports to the Louisiana Board of Regents.

When submitting, the Specialist must sign and acknowledge that the information submitted in the report is current, complete, and accurate.

- F. **Audits:** Beginning July 1, 2024, the Internal Auditor of the Board of Regents shall inspect or audit a random sample of at least 5% of the total number of gifts disclosed by or gift agreements received from any institution during the previous calendar year.